IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13236 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VIJAYBHAI B.JOSHI - Petitioner(s)
Versus
TORRENT POWER AEC LTD. THR' GENERAL MANGSER & 1 - Respondent(s)

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Appearance :
MRS FALGUNI D PATEL for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 03/08/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

1. Rule. The record indicates that though the respondents are duly served with the notice for final disposal of the petition, none of them has appeared either through its lawyer or through its constituted agent or filed affidavit-in-reply controverting the averments made in the petition. Having regard to the facts of the case, the petition is taken up for final hearing today.

2. By filing this petition under Article 226 of the Constitution of India, the petitioner i.e. Mr. Vijaybhai B. Joshi, has prayed to issue a writ of mandamus or any other appropriate writ or order, directing the respondent No.1 i.e. Torrent Power AEC Ltd., to supply electricity connection to the row houses constructed by him.

3. From the record it is evident that Final Plot No.15, forming part of Town Planning Scheme

No.20-B (Kali), Tal.City,Dist.Ahmedabad, belonged to Mr.Rasikbhai Babaldas and others. The owners wanted to develop the said land. Therefore, they through the petitioner, who is their power of attorney holder, applied to Ahmedabad Urban Development Authority for grant of Development Permission. The Ahmedabad Urban Development Authority granted Development Permission on August 12, 2005, which is quite evident from the contents of documents produced at Annexure "A" to the petition. After obtaining Development Permission, the petitioner constructed row houses. After the construction of row houses was over, it was the duty of the petitioner to obtain Building Use Permission, and thereafter, to apply to the respondent No.1 for supply of electricity to the row houses constructed by him. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for supply of electricity

connection to the row houses constructed by him. The said request has been turned down by the respondent No.1 which is quite evident from communication dated June 28, 2006, addressed by the General Manager of respondent No.1 to the petitioner which is produced at Annexure B to the petition. By the said communication, the petitioner is called upon to produce either Building Use Permission or conditional order of the High Court to enable the respondent No.1 to supply electric supply to the row houses constructed by the petitioner. Under the circumstances, the petitioner has filed the instant petition and claimed relief to which reference is made earlier.

4. The petition was placed for admission hearing before this Bench on July 7, 2006 and after hearing the learned counsel for the petitioner, notice for final disposal of the petition was issued making it returnable today i.e. July 28, 2006. As indicated

above, both the respondents are duly served, but, none of them has appeared to contest the petition.

5. This Court has heard Mrs. Falguni. D. Patel, the learned counsel for the petitioner and considered the documents forming part of the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued :

(1) The petitioner will approach the Ahmedabad Urban development Authority for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the

respondent No.1, i.e. Torrent Power AEC Limited, for providing electricity connection to 68 row houses constructed by him with a proper application/ form/format and by paying charges within a week.

(4)The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to row houses constructed by the petitioner within one month on usual terms and conditions.

(5)In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to the row houses constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC

Limited to disconnect the electricity supply provided to the row houses constructed by the petitioner within a period of fifteen days.

(6)In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to the row houses constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the row houses constructed by the petitioner.

(7)The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply

provided to the row houses constructed by him. This Undertaking shall be filed along with the application/form/format meant for the purpose.

6. Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal,J.)

(Smt. Abhilasha Kumari, J.)

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